

UNITED STATES DEPARTMENT OF AGRICULTURE

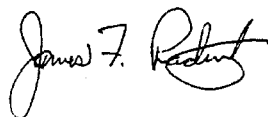
Farm Service Agency  
Washington, DC 20250

Notice FC-133

For: State and County Offices

**Multiple Benefits on Emergency Loans**

Approved by: Acting Deputy Administrator, Farm Loan Programs



**1 Overview**

**A**

**Background**

The Federal Crop Insurance Reform Act of 1994, Section 112 prohibits multiple benefits for the same loss. Emergency (EM) loan instructions in FmHA Instruction 1945-D conflict with this statute.

**B**

**Purpose**

This notice:

- temporarily resolves a conflict between the following regulations:
  - EM loan, NAP (7 CFR Part 404)
  - CAT (7 CFR Part 402)
- establishes an interim policy until FmHA Instruction 1945-D is amended.

**C**

**Contact**

State Offices shall direct questions regarding this notice to LMD, through the Area Office.

**Disposal Date**

July 1, 1998

**Distribution**

State Offices; State Offices relay to County Offices

## 2 Action

### A Discussion

EM loan instructions conflict with the:

- NAP and CAT regulations
- statute regarding multiple producer benefits.

Both the NAP and CAT regulations state that a producer:

- must choose between one of these program benefits and any other USDA disaster assistance made available
- cannot obtain benefits under either program and an EM loan on the same crop enterprise loss.

A producer who has received an EM loan would be ineligible for any NAP or CAT benefits on losses included in the EM calculations.

In contrast, current instructions in FmHA Instruction 1945-D, Section 1945.163(d), allow EM loans to be made but requires a deduction by the amount of NAP or CAT assistance or any other compensation for the same disaster losses received. This regulation is inconsistent with statutory authority.

IF...	THEN that...
a producer has received a NAP or CAT payment	person is no longer eligible for an EM loan for that enterprise or enterprises
	enterprise may not be used to establish a qualifying loss.

Any enterprise on which a NAP or CAT payment has been received should not be shown on FmHA 1945-26 as suffering a loss. However, that producer may receive EM loan assistance for other enterprises that suffered qualifying losses if no such payment had been received for those particular enterprises.

---

Continued on the next page

## 2 Action (Continued)

---

### A

#### Discussion (Continued)

**Examples:** A producer suffered qualifying losses on tomatoes and corn and received a NAP payment on the tomatoes but no payment on the corn. That producer may be eligible to receive EM loan assistance on the corn loss, but not on the tomatoes.

A producer suffered a qualifying loss on tomatoes but less than a qualifying loss on corn and received a NAP payment on the tomatoes. That producer is **not** eligible to receive an EM loan on either crop.

**Note:** A producer may elect to repay NAP or CAT benefits and then receive an EM loan.

**Note:** EM applications that are currently in process that have been determined eligible, but not yet closed, must be returned to COC for reversal of that decision if the decision conflicts with this notice. The applicant must be notified and appeal rights given. The adverse decision letter should refer to the statutory basis for the reversal.

---

### B

#### Exception

A producer who purchases additional coverage above the CAT policy may receive emergency loan assistance for the same enterprise, except that the amount received for the loss under the insurance coverage must be deducted from the EM loan qualifying losses according to FmHA Instruction 1945-D, Section 1945.163(d).

---

Continued on the next page

**2 Action (Continued)**

---

**C**

**SED Action**

SED's shall:

- instruct Credit Directors to train credit officials on interim EM loan eligibility policy according to this notice
  - monitor credit officials to ensure EM loans are being made that are consistent with statutory authority
  - ensure loan applications that are in-process or have been approved but not yet closed, and are now ineligible as a result of this notice, are returned to COC's for eligibility determination reversal.
- 

**D**

**Agriculture  
Credit Manager  
(ACM) Action**

ACM's shall:

- check with CED's to determine whether CAT or NAP payments have been received on enterprises for which producers are requesting EM loan assistance. This will be accomplished by submitting FmHA 1945-29 for annotation of any payments received
  - determine producers ineligible for EM loan assistance on any enterprise loss for which a CAT or NAP payment was received
  - deduct from any qualifying EM loan loss the amount of benefits received from additional crop insurance coverage
  - resubmit any EM loan application to COC that has received a determination of eligibility but is now ineligible as a result of this notice, for reversal of that decision
  - provide ineligible applicants with a decision letter and appeal rights.
-